

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

CANDICE RANA SULFRIDGE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:05-CV-188 (LEAD CASE)
	)	(Phillips/Guyton)
JOHN HUFF, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and by Order [Doc. 82] of the Honorable Thomas W. Phillips, United States District Judge, for disposition of the Plaintiffs' Motion for Fed. R. Civ. P. 54(b) and 60(a) Relief or Revision [Doc. 65] and Plaintiffs' Motion for an Enlargement of Time to File a Memorandum Regarding Procedures for a Class [Doc. 69].

The plaintiffs move this Court to alter and amend the Order entered in this case on July 20, 2005 [Doc. 61], granting the defendant's motion to strike Defendant Timothy Hutchison as a named defendant in his official capacity and ordering the Plaintiffs to make a more definite statement. The plaintiffs had not filed a response to that motion. In the alternative, Plaintiffs move pursuant to Fed. R. Civ. P. 60(b) to set aside the Order on the basis of excusable neglect, so that they may file a response to the defendant's motion to strike. [Doc. 65]. Defendant Hutchison opposes the plaintiffs' motion for relief, arguing that the Court's previous order should not be revised. [Doc. 71].

The Court has carefully reviewed the plaintiffs' motion, and while not necessarily accepting or agreeing with all of counsel's arguments in support of the motion, the Court finds that the motion [Doc. 65] should be **GRANTED**. The plaintiffs concede in their motion that any reference to Defendant Hutchison in counts 1-17 [Doc. 1] is to Timothy Hutchison in his official capacity only. However, an additional count [Doc. 4] was subsequently filed under seal. The plaintiffs assert that this additional count states a cause of action against Timothy Hutchison individually.<sup>1</sup> As the plaintiffs have clarified that one count of the Complaint is asserted against Timothy Hutchison in his individual capacity and that the other counts are asserted against him in his official capacity only, the plaintiffs shall not be required to strike any references in the Complaint to "Defendant Hutchison" as previously ordered.

The plaintiffs also move for an enlargement of time to file a memorandum pertaining to the procedures for the requested class. [Doc. 69]. The Court had previously ordered the parties to file their briefs on or before August 15, 2005. [Doc. 63]. The defendants oppose the plaintiffs' motion. [Doc. 73].

For good cause shown, the plaintiffs' motion for an enlargement of time [Doc. 69] is **GRANTED**. The plaintiffs shall have until **October 11, 2005** to file their memorandum.

**IT IS SO ORDERED.**

ENTER:

s/ H. Bruce Guyton  
United States Magistrate Judge

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<sup>1</sup>This count was unsealed on July 26, 2005. [Doc. 63].